

## REMARKS

### Summary

Claims 1-17 were pending and all of the claims were rejected in the Office action. The Applicant has cancelled Claims 5, 12 and 14-17 without prejudice. Claims 1 and 7 have been amended. No new matter has been introduced. The Applicants have carefully considered the references cited and the reasons set forth by the Examiner in the subject Office action, and respectfully traverse the rejections in view of the amendments, and the remarks set forth below.

### Rejections

#### **35 U.S.C. § 103 (a)**

Claims 1-4 and 7-11 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Sasaki (US 6,271,488; "Sasaki) in view of Painter et al. (US 5,669,485; "Painter". Claims 5, 6, and 12-17 were rejected over Sasaki in view of Painter as applied to Claims 1-13 and further in view of "Admitted Prior Art".

Claim 1 recites, *inter alia*, the first and second operating members being disposed so as to be positioned close to each other in one and the same plane and so that the respective axial directions are orthogonal to each other.

Claim 7 has a similar recitation.

With respect to Claims 1 and 7, the Examiner asserts that "Sasaki suggests the use of a plurality of operating members [Column 1, lines 27-30], however does not disclose a second operating member." (Office action, last paragraph on page 2) The Applicant respectfully traverses this interpretation of the cited reference. Sasaki states (Column 1, lines 33-39) that "because of the increased number of functions, the multi-functional pocket phone cannot be designed compact and operated easily. Also, in the pocket phone is designed to perform a function by operating a plurality of control keys, the operation itself is complicated". Therefore, Sasaki teaches away from having a plurality of

operating members, such as shown by Painter, and cannot be used as a reference suggesting that such a plurality of operating members be used.

The examiner relies on Sasaki, except for the disclosure of a second operating member, and uses Painter to attempt to remedy this defect. Since, as mentioned above, Sasaki teaches away from this combination, it is not appropriate to combine the references, and therefore not all elements of Claims 1 and 7 are taught. Furthermore, as taught by Painter, the rotational axes of the two operating members are arranged in the same plane, such that the axes are parallel to each other and not orthogonal to each other. The state of each of the operating members taught by Painter is determined by viewing indicia imprinted on the operating member. If, as suggested by the Examiner, the two operating members were oriented such that their axes were to be orthogonal to each other, it may be difficult to view the indicia on one or both of the operating members. Moreover, the orientation of the axis of one of the operating members of Painter orthogonal to that of the other operating member as suggested by the Examiner, would be incompatible with the form factor of the portable devices for which the switches are used. Additionally, the only way in which the operating members 101 of Painter can be mounted so as to be contained in a plane is with the axes of rotation parallel to each other. Such a configuration would not operate in the same manner as the arrangement of Claim 1. Therefore a *prima facie* case of obviousness cannot be made out. Claim 7 is similarly distinguished from the references, and is also therefore not obvious and consequently, allowable.

For at least the foregoing reasons, the Applicant respectfully submits that Claims 1 and 7 are allowable. Claims 2-4, 6, 8-11 and 13, being claims dependent on and further limiting allowable base claims are, without more, allowable.

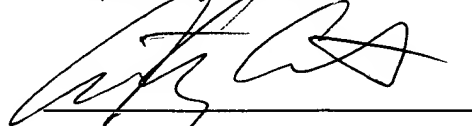
### **Conclusion**

Claims 1-4, 6-11 are pending. Claims 5, 12 and 14-17 have been cancelled; Claims 1 and 7 have been amended.

For at least the reasons given above, the Applicants respectfully submit that the pending claims are allowable and request that a Notice of Allowance issue.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'AP Curtis', is written over a horizontal line.

Anthony P. Curtis, Ph.D.  
Registration No. 46,193  
Agent for Applicants

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200